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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2012-0029]

Bayer CropScience LP; Determination of Nonregulated Status of Soybean Genetically Engineered for Herbicide Resistance

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that a soybean line developed by Bayer CropScience LP (Bayer), designated as event FG72, which has been genetically engineered for resistance to the herbicides glyphosate and isoxaflutole, is no longer considered a regulated article under our regulations governing the introduction of certain genetically engineered organisms. Our determination is based on our evaluation of data submitted by Bayer in its petition for a determination of nonregulated status, our analysis of available scientific data, and comments received from the public in response to our previous notice announcing the availability of the petition for nonregulated status and its associated environmental assessment and plant pest risk assessment. This notice also announces the availability of our written determination and finding of no significant impact.

EFFECTIVE DATE: [Insert date of publication in the Federal Register].

ADDRESSES: You may read the documents referenced in this notice and the comments we received in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room

hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming. Those documents are also available on the Internet at http://www.aphis.usda.gov/biotechnology/not_reg.html under APHIS Petition Number 09-328-01p and are posted with the previous notice and the comments we received on the Regulations.gov Web site at <http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0029>.

FOR FURTHER INFORMATION CONTACT: Dr. Rebecca Stankiewicz Gabel, Chief, Biotechnology Environmental Analysis Branch, Environmental Risk Analysis Programs, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737-1236; (301) 851-3927, email: rebecca.l.stankiewicz-gabel@aphis.usda.gov. To obtain copies of the petition, contact Ms. Cindy Eck at (301) 851-3892, email: cynthia.a.eck@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests," regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered "regulated articles."

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Paragraphs (b) and (c) of § 340.6 describe the form that a

petition for a determination of nonregulated status must take and the information that must be included in the petition.

APHIS received a petition (APHIS Petition Number 09-328-01p) from Bayer CropScience LP (Bayer), seeking a determination of nonregulated status of soybean designated as event FG72, which has been genetically engineered for resistance to the herbicides glyphosate and isoxaflutole. The petition states that this soybean is unlikely to pose a plant pest risk and, therefore, should not be a regulated article under APHIS' regulations in 7 CFR part 340.

In a notice¹ published in the Federal Register on July 13, 2012 (77 FR 41358-41359, Docket No. APHIS-2012-0029), APHIS announced the availability of the Bayer petition, a plant pest risk assessment (PPRA), and a draft environmental assessment (EA) for public comment. APHIS solicited comments on the petition, whether the subject soybean is likely to pose a plant pest risk, the draft EA, and the PPRA for 60 days ending on September 11, 2012.

APHIS received 80 comments during the comment period. Several of these comments included electronic attachments consisting of a consolidated document of many identical or nearly identical letters, for a total of 5,096 comments. Issues raised during the comment period include the potential effects of FG72 on human health, animals, and nontarget organisms; herbicide use changes; and economic costs of herbicide-resistant weeds. APHIS has addressed the issues raised during the comment period and has provided responses to comments as an attachment to the finding of no significant impact.

¹ To view the notice, petition, draft EA, the PPRA, and the comments we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0029>.

National Environmental Policy Act

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with the determination of nonregulated status of Bayer's soybean event FG72, an EA has been prepared. The EA was prepared in accordance with: (1) The National Environmental Policy Act (NEPA), as amended (42 U.S.C. 4321 et seq.), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500-1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Based on our EA, the response to public comments, and other pertinent scientific data, APHIS has reached a finding of no significant impact with regard to the preferred alternative identified in the EA.

Determination

Based on APHIS' analysis of field and laboratory data submitted by Bayer, references provided in the petition, peer-reviewed publications, information analyzed in the EA, the PPRA, comments provided by the public, and information provided in APHIS' response to those public comments, APHIS has determined that Bayer's soybean event FG72 is unlikely to pose a plant pest risk. We have, therefore, determined that Bayer's soybean event FG72 is no longer subject to our regulations governing the introduction of certain genetically engineered organisms.

Copies of the signed determination document, as well as copies of the petition, PPRA, EA, finding of no significant impact, and response to comments are available as indicated in the ADDRESSES and FOR FURTHER INFORMATION CONTACT sections of this notice.

Authority: 7 U.S.C. 7701-7772 and 7781-7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 16th day of August 2013.

Michael Gregoire

Acting Administrator, Animal and Plant Health Inspection Service.

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